

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
PO BOX 20207  
NASHVILLE, TENNESSEE 37202

October 7, 2004

Opinion No. 04-152

Application of Mineral Severance Tax to “Tennessee Mountain Stone”

---

**QUESTION**

Is “Tennessee mountain stone” subject to the mineral severance tax, Tenn. Code Ann. §§ 67-7-201 *et seq.*

**OPINION**

The local option mineral severance tax applies only to sand, gravel, sandstone, chert, and limestone. If “Tennessee mountain stone” is one of these types of minerals, it is subject to tax in counties that have decided to impose the mineral severance tax. It appears that “Tennessee mountain stone” may be a type of sandstone and thus subject to the tax.

**ANALYSIS**

Tenn. Code Ann. § 67-7-201 lists several types of minerals upon which a county may impose a mineral severance tax.

Any county legislative body, by resolution, is authorized to levy a tax on all sand, gravel, sandstone, chert and limestone severed from the ground within its jurisdiction. The tax shall be levied for the use and benefit of the county only, to be allocated and applied to its county road fund, and all revenues collected from the tax except deductions for administration and collection provided for in this part shall be allocated to the county.

While this tax is imposed by the county for its exclusive benefit, it is collected and administered by the Commissioner of Revenue, in accordance with Tenn. Code Ann. § 67-7-204.

The five substances listed in § 67-7-201 are the only ones that may be taxed under the mineral severance tax law. Tenn. Code Ann. § 67-7-202 further clarifies which substances are taxable, declaring that “[s]and, gravel, sandstone, chert and limestone” means “sand, gravel, sandstone, chert and limestone severed from the earth in the process of producing a salable product by whatever means of severance used.” That section goes on to enumerate several types of substances that are not subject to the tax, none of which would appear to include Tennessee mountain stone.

“Tennessee mountain stone” appears to be a trade name and is not discussed under that name in general scientific and geological literature. It appears, however, that “Tennessee mountain stone,” as found in several counties along the Cumberland Plateau, may be a type of sandstone. It is not the function of this Office, however, to make factual and scientific determinations in its opinion letters. Suffice it to say that if “Tennessee mountain stone” is a type of sandstone, then it would come within Tenn. Code Ann. § 67-7-201 and be subject to the mineral severance tax in those counties that have adopted the tax by local option.

---

PAUL G. SUMMERS  
Attorney General

---

MICHAEL E. MOORE  
Solicitor General

---

DEBORAH A. TOON  
Assistant Attorney General

Requested by:

The Honorable Bill Harmon  
Assistant Majority Whip  
109 War Memorial Building  
Nashville, Tennessee 37243